IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

**WRIT PETITION NO.2056 OF 2005**

Imran Rashid Chhapra )..Petitioner

Versus

Pravin H.Meghani and others ..Respondents

Mr.J.S.Kini for the Petitioner.

Mr.Jimmy Mehta i/b.H.g.Bhambhani for the Respondents.

**CORAM: SMT.NISHITA MHATRE, J.**

**DATED: 18TH JULY 2005**

**P.C.:**

. The Petition challenges the order passed by the trial Court whereby the trial Court has disallowed certain questions being posed to the witness by the Petitioner. The trial Court has observed that the questions asked do not ascertain the trustworthiness of the witness but are in respect of the contentions raised by him in criminal complaint which is pending. The trial Court has also observed that no questions should be asked for testing the veracity of the witness. Obviously, this observation made by the trial Court cannot stand the test of scrutiny under Section 145 of the Evidence Act, 1872. Section 145 of the Evidence Act reads as under :

> "145. Cross-examination as to previous statements in writing - A witness may be

> cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him."

The witness, therefore, can be confronted with what he has stated in the complaint before the criminal court and pleadings in the suit which is being tried by the Small Causes Court. Specific questions must be put to the witness in respect of what has been stated in the complaint and what has been stated in the pleadings can be asked under Section 145 of the Evidence Act in order to elicit the contradictions.

2. The impugned order and the observations of the trial Court disallowing questions for testing the veracity of witness are set aside. The Petitioner may ask such questions as are limited to the scope of Section 145 of the Evidence Act while testing the veracity of the witness with regard to what has been stated in the criminal proceedings. This cross-examination must be completed within one day. The cross-examination evidence on other aspects should also be completed at the earliest.

3. Writ Petition disposed of accordingly.